IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

FRIDAY, THE 5TH JANUARY 2007 / 15TH PAUSHA 1928

OP.No. 23152 of 1999(F)

PETITIONER:

SENIOR DIVISIONAL PERSONNEL OFFICER,
SOUTHERN RAILWAY,
TRIVANDRUM DIVISION,
THYCAUD, TRIVANDRUM 685 014.

BY ADV. SMT.SUMATHY DANDAPANI (SR.)
SRI.M.V.RAMACHANDRAN THAMPI,SC,RAILWAYS
SRI.JAMES KURIAN, SC, RAILWAYS

RESPONDENTS:
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1. **SMT.K.RAJAMMA, PAZHAYAKATHU THEKKATHIL,**
MENAMPALLY, PATHIYOOR P.O.,
ALAPPUZHA DISTRICT, KERALA STATE.

2. **THE INDUSTRIAL TRIBUNAL, KOLLAM.**

BY ADV. SRI.R.RAJASEKHARAN PILLAI
SRI.B.RAGHUNANDANAN

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 05/01/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

S. SIRI JAGAN, J.

O.P. No. 23152 OF 1999 F

Dated this the 5th day of January, 2007

J U D G M E N T

The Senior Divisional Personnel Officer of Southern Railway, Trivandrum Division has approached this court challenging Ext.P7 award of the Industrial Tribunal, Kollam, whereby the Labour court held that the railway administration has acted illegally and unjustifiably in denying re-employment to the 1st respondent herein and, therefore, she is entitled to be registered in the relevant list of employees and to get re-employment. The 1st respondent claimed that she earlier worked in the railway administration continuously from 19.5.1976 to 19.11.1976 in the open line and, therefore, she was entitled to re-employment in accordance with the provisions of the Industrial Disputes Act as also the Indian Railway Establishment Manual. This contention was accepted by the Labour court while passing Ext.P7 award.

2. The contention of the railway administration is that the re-employment of persons, who were retrenched prior to 1.1.1981 was as per a scheme prepared in accordance with the directions of the Supreme Court. As per that scheme, the retrenched employees had to get themselves registered for re-employment before 31.3.1987 and the worker actually approached the administration only subsequent to 31.3.1987 and, therefore, she is not entitled to the reliefs prayed for in the ID. The Labour Court condoned this delay on the ground that the workman was not aware of the cut off date. The petitioner railway administration submits that the question as to whether

persons, who approach the administration subsequent to 31.3.1987, can be so registered was considered by the Supreme Court in the decision of ***Dakshin Railway Employees Union' Trivandrum Division Vs. General Manager, Southern Railway and others*** (AIR 1987 SC 1153) and held that the retrenched employees should submit their claim to the administration before March 31, 1987.

3. I have considered the rival contentions in detail.

4. Since the cut off date was fixed by the Supreme Court itself as 31.3.1987 taking into account the difficulties of the railway administration, I am of opinion that the Labour court could not have accepted the claim of the 1st respondent on the ground that she is an illiterate person and she was not aware of the requirement to file application before 31.3.1987. That being so, the award of the Labour court is not sustainable in view of the Supreme Court decision and accordingly Ext.P7 award is set aside and it is declared that the 1st respondent is not entitled to any reliefs in the ID.

The original petition is disposed of as above.

(S. SIRI JAGAN, JUDGE)

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S. SIRI JAGAN , J.

OP No.23152/99F

J U D G M E N T

5th January, 2007